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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 10/666,259  | 09/22/2003  | Steven Sigler        | 32581-2002          | 9033             |
| 7590  | 05/24/2004  |                      | EXAMINER            |                  |
| Torys LLP<br>Suite 3000, 79 Wellington Street West<br>Box 270, TD Centre<br>Toronto, ON M5K 1N2<br>CANADA |             |                      | CHAMBERS, MICHAEL S |                  |
|   |             |                      | ART UNIT            | PAPER NUMBER     |
|   |             |                      | 3711                |                  |

DATE MAILED: 05/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                                     |                         |  |
|------------------------------|-------------------------------------|-------------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b>              | <b>Applicant(s)</b>     |  |
|                              | 10/666,259                          | SIGLER, STEVEN          |  |
|                              | <b>Examiner</b><br>Michael Chambers | <b>Art Unit</b><br>3711 |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE **1 MONTH(S)** FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 22 September 2003.
- 2a) This action is **FINAL**.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-48 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) \_\_\_\_\_ is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) 1-48 are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____. | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|   | 6) <input type="checkbox"/> Other: _____.                                   |

***Election/Restrictions***

This application contains claims directed to the following patentably distinct species of the claimed invention:

Group 1- A method of playing a game including the step of issuing a penalty when the pitcher delivers a pitch other than a fastball as claimed in claim 2.

Group 2- A method of playing a game including the step of issuing a penalty to the second team when the pitcher delivers a pitch other than a fastball as claimed in claim 2.

Group 3- A method of playing a game including the step of forming divisions as claimed in claim 3.

Group 4- A method of playing a game including the step of forming divisions according to age as claimed in claims 4 and 45.

Group 5- A method of playing a game including the step of forming divisions according to gender as claimed in claims 5 and 46.

Group 6- A method of playing a game including the step of forming divisions according to velocity of pitching as claimed in claims 6,7,47 and 48.

Group 7- A method of playing a game including the step of issuing a penalty to the second team when the pitcher delivers a pitch that is outside the range of velocity for the designated division as claimed in claim 8.

Group 8- A method of playing a game including the step of issuing a penalty to the second team when the pitcher delivers a pitch that is outside the range of velocity for the designated division on a plurality of occasions as claimed in claim 9.

Group 9- A method of playing a game including the step of issuing a walk to the batter when three balls are issued to the batter as claimed in claim 10

Group 10- A method of playing a game including the step of issuing a strike-out to the batter when two strikes are issued to the batter as claimed in claim 11

Group 11- A method of playing a game including the step of issuing two runs for every runner that crosses home as claimed in claim 12

Group 12- A method of playing a game including the step of issuing a penalty when the pitcher fails to deliver a pitch within a predetermined amount of time as claimed in claims 13 and 14

Group 13- A method of playing a game including the step of issuing a penalty to the batter when the batter fails to keep at least one foot in the batter's box as claimed in claim 15.

Group 14- A method of playing a game including the step of issuing a penalty to the batter when the batter fails to enter the batter's box within a reasonable time as claimed in claim 16.

Group 15- A method of playing a game including the step of issuing a penalty to the first team when a runner leads off as claimed in claim 17.

Group 16- A method of playing a game including the step of issuing a penalty to the first team when a runner steals or attempts to steal a base before the ball crosses home plate as claimed in claim 18.

Group 17- A method of playing a game including the step of issuing a penalty to the first team when a runner steals or attempts to steal a base before the pitcher releases the ball as claimed in claim 19.

Group 18- A method of playing a game including the step of permitting non-tagging fielding plays as claimed in claim 20.

Group 19- A method of playing a game including the step of ending the game after a predetermined number of innings as claimed in claim 21.

Group 20- A method of playing a game including the step of permitting players to be substituted without limitation as claimed in claim 22.

Group 21- A method of playing a game including the step of permitting players not to be limited by their presence or absence in the batting order as claimed in claim 23.

Group 22- A method of playing a game including the step of permitting the number of offensive players to be at least 10 as claimed in claim 24.

Group 23- A method of playing a game including the step of permitting the number of defensive players to be 9 as claimed in claim 25.

Group 24- A method of playing a game including the step of permitting the number of defensive players to be 9 as claimed in claim 25.

Group 25- A method of playing a game including the step of permitting the number of defensive players to be 9 as claimed in claim 25.

Group 26- A method of playing a game including the step of including a first base that consists of a safety-first base as claimed in claim 26.

Group 27- A method of playing a game including the step of arranging the bases of the playing field in a diamond-shaped formation as claimed in claim 27.

Group 28- A method of playing a game including the step of having a pitching distance between 45 and 60 feet as claimed in claims 28 and 29.

Group 29- A method of playing a game including the step of having a fence distance between 200 and 300 feet as claimed in claim 30.

Group 30- A method of playing a game including the step of having a base path distance between 60 and 75 feet as claimed in claim 31.

Group 31- A method of playing a game including the step of using a ball between 9 and 10 inches as claimed in claim 32.

Group 32- A method of playing a game including the step of using a ball that has a core that is softer than the core of a regulation baseball as claimed in claim 33.

Group 33- A method of playing a game including the step of using a ball that is a reduced injury factor ball as claimed in claim 34.

Group 34- A method of playing a game including the step of using a ball that is a reduced injury factor ball as claimed in claim 34.

Group 35- A method of playing a game including the step of using a bat as claimed in claims 35 and 36.

Group 36- A method of playing a game including the step of using velocity sensors as claimed in claims 37 and 38.

Group 37- A method of playing a game including the step of using safety equipment when playing the game as claimed in claims 39 and 40.

Group 38- A method of playing a game as claimed in claim 41.

Group 39- A method of playing a game as claimed in claim 42.

Group 40- A method of playing a game as claimed in claim 43.

Group 41- A method of playing a game as claimed in claim 44.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claim 1 is generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

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***Conclusion***

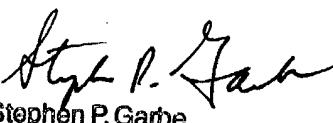
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Chambers whose telephone number is 703-306-5516. The examiner can normally be reached on 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steve Garbe can be reached on 703-308-1207. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Michael Chambers  
Examiner  
Art Unit 3711

May 13, 2004

  
Stephen P. Garbe  
Primary Examiner